

1 Repeal 2 Cal. Code Regs. Section 18944.1 to read:

2 **~~§ 18944.1. Receipt of the Gift: Passes or Tickets Given to an Agency.~~**

3 ~~Passes or tickets which provide admission or access to facilities, goods or~~
4 ~~services, or other tangible or intangible benefits (including passes to motion picture~~
5 ~~theaters, amusement parks, parking facilities, country clubs, and similar places or events,~~
6 ~~but not including travel or lodging), which are provided to an official are not gifts to the~~
7 ~~official whenever (a), (b), (c), (d), or (e) applies:~~

8 ~~(a) The donor gives the ticket or passes to the official's agency, through an~~
9 ~~responsible official of the agency, for the sole purpose of distributing the passes or tickets~~
10 ~~to officials of the agency and their spouses or immediate families and use of the tickets or~~
11 ~~passes is so limited by the agency; and~~

12 ~~The tickets or passes are not earmarked by the donor for any specific officials of~~
13 ~~the agency; and~~

14 ~~The agency retains a written public record of the terms under which the tickets~~
15 ~~were accepted by the agency and the terms under which the tickets or passes were~~
16 ~~distributed and to whom they were distributed.~~

17 ~~(b) The tickets or passes are provided to the agency for an event at a publicly-~~
18 ~~owned facility under the jurisdiction of the agency and neither the agency nor any official~~
19 ~~of the agency receiving or distributing the tickets or passes for the agency gives any of~~
20 ~~the tickets or passes to any person who is not an official of the agency, or not the~~
21 ~~official's spouse or immediate family member.~~

1 ~~(c) The ticket or passes are provided to the agency as part of the contract for the use of~~
2 ~~the facility and the distribution and use of the passes or tickets are regulated by an~~
3 ~~officially adopted policy of the agency.~~

4 ~~(d) The tickets or passes are provided to the official of the agency for use by the~~
5 ~~official and his or her spouse and immediate family because the official has an official or~~
6 ~~ceremonial role or function to perform on behalf of the agency at the event in question.~~

7 ~~(e) The tickets or passes are provided to the agency or officials of the agency for~~
8 ~~use at an event at a publicly owned facility constructed or operated under the provisions~~
9 ~~of a joint exercise of powers agreement and such agency is a party to the joint exercise of~~
10 ~~powers agreement, and the distribution and use of the passes or tickets are regulated by~~
11 ~~an officially adopted policy of the agency.~~

12 **Adopt 2 Cal. Code Regs. Section 18944.1 to read:**

13 **§ 18944.1. Gifts: Agency-Provided Tickets or Passes to Events.**

14 (a) When an agency provides a ticket or pass to an official of that agency as part
15 of the official's government salary for the position, and the official uses the ticket or
16 pass, the ticket or pass is not a gift but is income, and is not subject to the gift provisions
17 of this regulation so long as the agency treats the ticket or pass as government salary
18 income to the official consistent with applicable state and federal income tax laws and the
19 agency follows the provisions of subdivisions (f) and (g) subdivision (d) below.

20 (b) When an agency provides a ticket or pass to a public official of that
21 agency that allows admission to a facility, event, show, or performance for an
22 entertainment, amusement, recreational, or similar purpose and that otherwise meets the
23 definition of gift under Section 82028 and is not exempt under applicable Commission

1 regulations, and the official uses the ticket or pass, the official will nevertheless meet the
2 burden under Section 82028 that equal or greater value has been provided in exchange if
3 one of the exceptions set forth below applies:

4 (1) Exception: Ticket or pass provided by source other than official's agency. A
5 ticket or pass provided to an official for his or her admission to an event at which the
6 official performs a ceremonial role or function on behalf of the agency is not a gift to the
7 official.

8 (2) Exception: Ticket or pass from outside source provided to official by
9 official's agency. A ticket or pass provided gratuitously to an agency and provided by
10 the agency to one of its officials for his or her use is not a gift to an agency that official
11 who personally uses the ticket or pass, so long as all of the following apply:

12 (A) The ticket or pass is not earmarked by the original source for use by the
13 agency official who uses the ticket or pass.

14 (B) The agency determines, in its sole discretion, which official who may use the
15 ticket or pass.

16 (C) The distribution of the ticket or pass by the agency furthers a specific
17 governmental or public purpose in addition to any private benefit the official may
18 receive.

19 (3) Exception: Agency-provided ticket or pass. A ticket or pass that an agency
20 obtains pursuant to the terms of a contract for use of public property, ~~or obtains or~~
21 controls because the agency controls the event (such as a state or county fair), or
22 purchases at fair market value, and distributes to an agency official for his or her use, is
23 not a gift by the agency to the official if the distribution of the ticket or pass by the

1 agency accomplishes a specific governmental or public purpose in addition to any private
2 benefit the official may receive.

3 (c) Any distribution of tickets or passes under subdivision (b)(2) or (b)(3) by an
4 agency to, or at the behest of, ~~it~~ the agency's officials must be made pursuant to a written
5 policy established by the agency, and posted on its website in a prominent fashion, that
6 states the specific governmental or public purpose of the agency to be accomplished by
7 the distribution of the ticket or pass. A distribution policy that provides an official with a
8 ticket or pass solely based on the official's position with the agency satisfies the
9 governmental or public purpose requirement if the official's written job duties require the
10 official to appear at the event for which the ticket or pass is provided.

11 (d) The distribution of a ticket or pass pursuant to this regulation, including a
12 ticket or pass that is provided under subdivision (a) above, shall be posted, on a form
13 provided by the Commission, in a prominent fashion on the agency's website, within 30
14 days after the distribution. If the agency does not maintain a website, the form shall be
15 ~~maintained as a public record, be subject to inspection and copying under Section~~
16 ~~81008(a), and be~~ forwarded to the Commission for posting on its website. The ~~posting~~
17 ~~form, which shall be signed by the agency head or his or her designee, shall include the~~
18 ~~name of the agency and appropriate contact information, the name of the agency official~~
19 ~~who received the ticket or pass or who behested its distribution to another person, the~~
20 ~~name of each individual who received~~ ~~person receiving~~ the ticket or pass at the agency
21 ~~official's behest, the number of tickets or passes distributed at the behest of the agency~~
22 ~~official, a description of the event, the date of the event, the source of the ticket or pass if~~
23 ~~the ticket or pass is not agency owned, the cost~~ face value of the admission each ticket or

1 pass, and a description of the governmental, or public purpose under which the
2 distribution was made. If the ticket or pass is distributed *at the behest of an agency*
3 *official* to an organization outside the agency, the agency may post the name, address,
4 and description of the organization ~~and the number of tickets or passes provided to the~~
5 ~~organization~~ in lieu of posting the names of each individual from the organization *who*
6 *received the ticket or pass. The form shall be maintained as a public record and be*
7 *subject to inspection and copying under Section 81008(a).*

8 (e) The exceptions provided under subdivision (b) apply only to the benefits the
9 official receives by the admission and are not applicable to any other benefits the official
10 may receive that are not included with the admission, such as food or beverages, or any
11 other item presented to the official at the event.

12 (f) For purposes of this regulation, an official “uses” a ticket or pass by
13 attending the event, distributing the ticket or pass to another person, or behesting the
14 distribution of the ticket or pass. An official does not “use” a ticket or pass when the
15 official is responsible for distributing it as part of his or her job duties pursuant to the
16 policy required in subdivision (c).

17 NOTE: Authority cited: Section 83112, Government Code.

18 Reference: Section 82028, Government Code.